

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
ALEXANDRIA DIVISION

RUSSELL G. WARE

CIVIL ACTION NO. 1:18-CV-00417

VERSUS

JUDGE DRELL

DARREL VANNOY

MAGISTRATE JUDGE PEREZ-MONTES

---

**MEMORANDUM ORDER**

Petitioner Russell G. Ware (“Ware”) filed a Motion to Dismiss and/or Strike Respondent’s Response to his petition for writ of habeas corpus as untimely (Doc. 19).

Respondent opposes the motion, alleging he filed the response only one day late. Although Respondent contends he was served on August 14, the record shows service was executed on August 8, 2018 (Doc. 14). The response was due 60 days after service, on October 9, 2018 (Doc. 13). Counsel for Respondent is apparently mistaking the date he received a copy of the complaint as the date of service on Warden Darrel Vannoy, who is the sole Respondent. Although a copy of the complaint was sent to counsel for Respondent through “service of a summons” (Doc. 13), he is not the Respondent in this case. Therefore, the only service date that matters is the date of service on the Respondent.

Because Ware has not alleged or shown he was prejudiced by Respondent’s one-week delay in filing the Response, Ware’s Motion to Dismiss/Strike Respondent’s Response is DENIED. (Doc. 19). See Dongsheng Huang v. Administrative Review Board, United States Dept. of Labor, 579 Fed. Appx. 228, 232, n. 2 (5th Cir. 2014); see also Rodgers v. Louisiana Board of Nursing, 665 Fed. Appx. 326, 328 (5th Cir.

2016), cert. den., 137 S. Ct. 2162 (U.S. 2017) (“Federal judges have the inherent power to manage their own proceedings and control the conduct of those who appear before them.”).

THUS DONE AND SIGNED in chambers in Alexandria, Louisiana, this  
26th day of April, 2019.

  
\_\_\_\_\_  
Joseph H.L. Perez-Montes  
United States Magistrate Judge